

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION**

ROOFING & RECONSTRUCTION  
CONTRACTORS OF AMERICA,  
LLC (A/A/O SHELDON  
JOHNSON),

Plaintiff,

v.

Case No: 2:21-cv-110-SPC-MRM

FEDERAL INSURANCE  
COMPANY,

Defendant.

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**OPINION AND ORDER**<sup>1</sup>

Before the Court is Plaintiff Roofing & Reconstruction Contractors of America, LLC's Motion to Remand to State Court ([Doc. 13](#)) and Defendant Federal Insurance Company's Response ([Doc. 14](#)). The Court denies the motion.

This is an insurance dispute arising from Hurricane Irma. Plaintiff filed the original complaint in state court on February 20, 2020. ([Doc. 3](#)). The Complaint describes Plaintiff as a "Limited Liability Company authorized to

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<sup>1</sup> Disclaimer: Documents hyperlinked to CM/ECF are subject to PACER fees. By using hyperlinks, the Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide, nor does it have any agreements with them. The Court is also not responsible for a hyperlink's availability and functionality, and a failed hyperlink does not affect this Order.

do business in the State of Florida and doing business and maintaining offices and/or agents for the transaction of its customary business in Collier County, Florida.” (Doc. 3 at 1). Federal Insurance sought information from Plaintiff about the citizenship of its members. After a prolonged dispute, Plaintiff provided the information to Federal Insurance on February 4, 2021. (Doc. 14-6). On February 11, 2021, Federal Insurance removed the case to this court asserting diversity jurisdiction. (Doc. 1).

Plaintiff insists removal was untimely because Federal Insurance knew that the amount in controversy exceeded \$75,000 for nearly a year before removing the case. Even so, Federal Insurance properly removed the action.

Generally, any civil action brought in a State court of which the federal district court has “original jurisdiction” may be removed by defendants to federal court. 28 U.S.C. § 1441(a). The “original jurisdiction” of a federal district court includes diversity jurisdiction. 28 U.S.C. § 1332(a). A limited liability company (“LLC”)—like Plaintiff—is a citizen of every state in which one of its members is domiciled. *Rolling Greens MHP, L.P. v. Comcast SCH Holdings L.L.C.*, 374 F.3d 1020 (11th Cir. 2004). Each member of the LLC must be diverse from the opposing party. *Flintlock Constr. Servs., LLC v. Well-Come Holdings, LLC*, 710 F.3d 1221, 1224-25 (11th Cir. 2013). That is why Federal Insurance asked about the state citizenship of Plaintiff’s members.

If the state case is removable on the face of the initial pleading, a defendant has 30 days from service of the complaint and process in which to file a notice of removal. [28 U.S.C. § 1446\(b\)\(1\)](#). But because Federal Insurance did not know about the citizenship of the LLC's members, the case was not removable on its face. That it knew the amount in controversy exceeded \$75,000 does not matter if Federal did not know if there was diversity of citizenship. It discovered the case was removable on February 4, 2021, and requested removal shortly thereafter.

Under [28 U.S.C. § 1446\(b\)\(3\)](#), “if the case stated by the initial pleading is not removable, a notice of removal may be filed within 30 days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.” A case may not be removed under § 1446(b)(3) based on diversity jurisdiction more than 1 year after the commencement of the action. [28 U.S.C. § 1446\(c\)\(1\)](#).

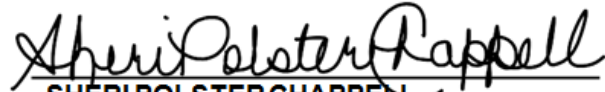
Federal properly removed this action. It filed its notice of removal on February 11, 2021, less than 30 days after it determined the case was removable on February 4, 2021 and within one year of the action's commencement on February 20, 2020.

Accordingly, it is now

**ORDERED:**

Plaintiff's MOTION to Remand to State Court ([Doc. 13](#)) is **DENIED**.

**DONE** and **ORDERED** in Fort Myers, Florida on March 22, 2021.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record